

# **HISTORY OF THE KULALUK LEASE**

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## **Prelude: Social Change and Land Rights.**

The history of struggle to obtain the lease at Kulaluk for Aboriginal communal living purposes was closely related to a much wider process of social change and consequent achievement of Aboriginal land rights which took place in the 1960s and early 1970s. In a social sense, Australia was certainly a much different country in 1970 from what it had been in 1960. If nothing else, a great improvement in mass communications meant that Australian television screens had brought close some of the great overseas social issues of the 1960s. The examples of the civil rights movement and Vietnam War protests in the United States provided inspiration and models for tactics which could be used to approach similar problems in Australia.

In the changing social climate Australian Aborigines won some basic rights as the general policy of assimilation began to give way to self-determination. The granting of full citizenship and consequent freedoms in the mid 1960s was a particularly important watershed in the Northern Territory. With citizenship, there was an end to many longstanding controls such as discriminatory drinking laws and, in Darwin, compulsory residence in Aboriginal compounds. Greater access to the cash economy was achieved for Aborigines through award wages for those who had jobs and full pension rights for those who did not.

Some of the most important effects of these changes actually occurred in non-urban areas. With a legal requirement to pay award wages, the holders of some pastoral properties became increasingly antagonistic towards the presence of those Aborigines whose traditional land coincided with their stations and who could no longer be expected to work for practically nothing but their keep. At the same time, the way of life of many Aboriginal groups still on traditional lands or in reserves faced disruption with the advent of several large-scale mining projects and the consequent likelihood of greatly changed physical and social environments and the threat of desecration and disruption of sites of significance. Thus, with the attainment of basic human rights and a somewhat more confident and assertive stand by some Aboriginal groups, there was polarisation in black-white relationships.

The land rights movement, which was later to show up in the Darwin urban area at Kulaluk, had its first and strongest manifestations among traditional Northern Territory Aborigines. In 1963 the Yirrkala people of North East Arnhem Land petitioned Parliament in Canberra to prevent the disruption of their traditional way of life and the destruction of sacred sites which would be caused by bauxite mining at Gove. Three years later the Gurindji stockmen of Wave Hill Station struck against their employer, a large foreign-owned pastoral company, on the grounds that they had suffered wage injustices and had been dispossessed of their traditional land.

The catalyst for land rights in Australia came in 1971 when Mr Justice Blackburn found against the Yirrkala in the 'Gove Land Rights Case.' The reaction against the judgement by Aborigines and many sympathetic members of the white community meant that the questions of Aboriginal land rights would have to be addressed at the national level. The McMahon Government took a tenuous step in this direction when in January 1972 it announced several measures that would be taken to protect Aboriginal interests.

The Australian Labor Party had a more definitive policy in support of land rights, and the newly elected Whitlam Government appointed an Aboriginal Land Rights Commissioner, Mr Justice A E Woodward, early in 1973. However, the resulting legislation, the *Aboriginal Land Rights (N.T.) Act 1976*, was passed by Parliament under the succeeding Fraser Government. It concentrated on traditional claims while discarding or watering down other important features of Justice Woodward's recommendations such as the mechanism for land claims in urban areas. Although it did not apply directly to Kulaluk, this Act nevertheless has proved to be milestone legislation which has provided a vehicle for some Northern Territory Aborigines to own and control their traditional lands. If nothing else, it provided precedent and moral backup for urban claims, even though the Larrakia claim to the Kulaluk land eventually had to be satisfied under different legislation.

## Location of Aborigines in Darwin before 1970

The Larrakia were the Aboriginal people living in the general vicinity of today's Darwin at the time of white settlement. In the mid 1880s the Government Resident, J L Parsons, expressed concern that the Northern Territory 'natives' would be 'improved off the face of the earth,' and 'for their better government' he pressed for the creation of reserves.<sup>1</sup> When the responsible South Australian Minister subsequently requested 'Aboriginal Reserves to be declared for the different tribes of natives in the Territory',<sup>2</sup> the senior surveyor recommended for the Larrakia 'that reserves be declared at Mosquito Pass and Manton's Gap in the Daly Ranges'.<sup>3</sup> The Larrakeah Reserve, which is considered to actually be in Woolner country, was declared despite the view of the next Government Resident that 'I do not see any likelihood of the blacks contenting themselves to settle on any reserves set apart for their habitation'.<sup>4</sup>

Darwin certainly continued to be a major focal point for the Larrakia. Their main camp in the town was at the head of Smith and Cavenagh Streets in the 1890s, but Lameroo Beach, 'as it has been for generations, is the camp of the family in whom that part is vested'.<sup>5</sup> There were also several camps near the town used by other tribes.

When the Kahlin compound opened in 1912 there had been two Larrakia camps within the town limits – one at Lameroo Beach (the 'Lameru Camp') and the other on top of the cliff above it (the 'King Camp').<sup>6</sup> Other tribes also had camps 'In and about the township'.<sup>7</sup> For the next quarter century, however, Kahlin Compound was the officially approved location, as the policy was that 'all Aboriginals and half-castes should either be in compound or in their employer's quarters after sunset'.<sup>8</sup>

Dr C. E. Cook, who filled the dual roles of chief Protector of Aboriginals and Chief Medical Officer in the mid 1930s, looked upon Kahlin as the best site for a new hospital. He urged the Administrator to allow him to move the Aboriginal compound to a new site because he felt

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<sup>1</sup> N.T. Government Resident's Report, 1885.

<sup>2</sup> J A Cockburn to J L Parsons, 21 May 1886

<sup>3</sup> G R McMinn to J L Parsons, 3 June 1886

<sup>4</sup> J G Jenkins, 29 May 1891.

<sup>5</sup> Parkhouse, 1895.

<sup>6</sup> N.T. Administrator's Report for 1912.

<sup>7</sup> W. B. Spencer to Minister for External Affairs, 8 February 1912.

<sup>8</sup> N.T. Administrator's Report for 1912.

that Kahlin had become unsuitable for the housing and education of Aborigines and that there was an urgent need to build a new hospital there – the old one was said to be ‘insanitary, unsafe, inadequate and difficult to manage.’<sup>9</sup> At the time, 45 of the residents at Kahlin were full-blood Larrakia.<sup>10</sup>

Considerable discussion ensued about the relative merits of various potential sites for a new reserve. The need to move became imperative when the cyclone of March 1937 destroyed the Kahlin Compound. Cook argued successfully that it was better to move the Aborigines to a new location than to repair the damage at Kahlin. His preference was to use two parcels of land to the north of Ludmilla Creek, the 369-acre freehold Section 839 in the Hundred of Bagot and the adjoining Ludmilla Creek reserve.

Section 839 had originally been part of a larger agricultural lease (No. 5) surveyed in 1894. The leaseholder, David Daniels, a planter of Darwin, converted it to freehold in 1900. Daniels died in 1914 and the title passed to Isaac Daniels, who died in 1919. One of Isaac’s heirs, George McKeddie, died in 1927 and the other William Henry Grant, sold the land to Leonard Bartlett Wilson, a plumber of Darwin, in 1929. The property was compulsorily acquired from Wilson for 400 pounds by the Commonwealth in 1937 for the purpose of an Aboriginal Reserve. The Ludmilla Creek reserve had remained crown land, although it had had a short history as Agriculture Lease No. 11 when it was taken out by Isaac Daniels for one year in 1894. The newly created Bagot Aboriginal reserve was 743 acres (297 hectares) in extent.

At the time of resumption, Wilson’s property was inspected by the Chief Surveyor. He reported that there were 50 to 60 acres of good cultivable soil, about 200 acres were gravelly and stony, and the balance was poor. Some land in the reserve is thought to have been used earlier for rice production by Chinese, who are known to have grown the crop at various swamp sites around Darwin. The surveyor reported the property to be heavily wooded and carrying abundant supplies of both firewood and building timber, with white cedar trees scattered through the ‘jungle growth.’ He also noted that there was a plentiful supply of good gravel and

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<sup>9</sup> C. E. Cook to Administrator, 6 February 1936.

<sup>10</sup> W. B. Kirkland to Administrator, 10 June 1936

a large deposit of pure shell which could be used to manufacture lime for building purposes. There were four wells on the property.<sup>11</sup>

One of those who had opposed the Bagot site was Prof A. P. Elkin of Sydney University. Among the drawbacks he raised in a submission to the Minister was that 'various Saltwater and Island groups frequently live in about half-a-dozen camps near this proposed site while some of the Rock-country natives often live in smaller camps nearer Darwin.' These camps were 'said to be centres of vice (opium, methylated spirits and prostitution).'<sup>12</sup> Cook countered with the argument that 'these camps exist at the present time owing to our inability to patrol the locality effectively. With the stricter supervision which must follow ... these camps will disappear and Aboriginals now in the vicinity of Darwin will be concentrated under supervision.' He also maintained that without control these camps 'would be a menace to troops resident on the proposed aerodrome.'<sup>13</sup>

As facilities were finished at Bagot in the late 1930s there was a gradual movement of people from the old compound to the new reserve. They were established enough to plant rice on about four acres during the 1938-9 wet season. This was presumably in the area still known as the 'ricefields' (or 'Chinese ricefields') just to the south west of where Totem Road meets Dick Ward Drive.

With an expansion of the military presence at Darwin at the start of World War II, the buildings at the Bagot Compound were handed over to the Army in August 1940 to be used as a hospital. The Aboriginal residents were then evacuated to a number of places, including Berrimah and Delissaville (Belyuen). By October there were only a 'few aged and infirm Aboriginals, rationed (i.e., provided with food) and living in houses along the beach frontage of the Bagot Reserve.' These people were to be removed as soon as a site on the West Arm could be prepared.<sup>14</sup>

Bagot reverted to being an Aboriginal reserve after the war, but it showed the effects of five years of military occupation. An officer of the Native Affairs Branch complained that 'most of the arable land ... had been ruined by the activities of the Army and the A.W.C., who have removed vast quantities of gravel from the area. In point of fact the greater

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<sup>11</sup> F. P. Shepherd to Chief Administrator, 26 November 1936.

<sup>12</sup> A. P. Elkin to Minister for the Interior, 30 December 1936.

<sup>13</sup> C. E. Cook to Administrator, 29 February 1937.

<sup>14</sup> E. W. P. Chinnery to Administrator, 4 October 1940.

proportion of the Reserve is a desolate waste and one huge gravel pit.’ The runways and roads associated with the RAAF base had been built with the gravel excavated from Bagot.<sup>15</sup>

For a time after the war, Bagot was occupied by ‘half-castes,’ who according to official policy were to be kept separate from ‘full-blooded’ Aborigines. The full-bloods were thus not moved back from Berrimah until 1948, when the Retta Dixon Home for half-caste children was transferred to a new site at the corner of the reserve.

The leasing of land to the Aborigines Inland Mission for the construction of the Retta Dixon Home in 1948 marked the beginning of the process of carving up Bagot Reserve. The first resumptions were relatively minor, with twenty acres excised for the AIM and eleven more resumed in 1959 for the construction of Bagot Road. The real threat came when suburbs were becoming established to the north of the ‘empty land’ of the Reserve.

There was a strong sentiment developing in Darwin that the time had come for the land at Bagot to be used for general residential purposes. In 1959 the Mayor of Darwin, Mr J. Lyons, was quoted as saying: ‘The way Darwin is growing, leaving Bagot where it is would be like putting it in Smith Street.’<sup>16</sup> Another prominent local politician, Mr R. C. [Dick] Ward MLC, was of the opinion ‘that to put the natives further into the bush would be in their own interests,’ adding, ‘The town of Darwin is extending and we do require places within easy access to the city where people can live.’<sup>17</sup>

In 1961 the Administrator, Roger Nott, suggested to the Department of Territories that the bulk of Bagot Reserve should be revoked to provide land for a suburban subdivision, although he proposed that 84 acres would be retained ‘for the immediate and future needs’ of the Aboriginal settlement. Paul Hasluck, the Minister at the time, resisted the idea and expressed doubt that the proposal would be to the benefit of Aborigines. Several amended proposals were put to Hasluck during 1962 and 1963, but the Administration did not get the answer it wanted. In 1964, however, a new Minister and a new head of Department of Territories acquiesced and the Administration was able to secure the revocation of all but 57 acres. The changed status was gazetted in 1965.

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<sup>15</sup> V. J. White to Acting Director, Native Affairs Branch, 23 November 1945.

<sup>16</sup> *NT News*, 2 January 1959.

<sup>17</sup> Hansard, 13 January 1959.

Although the bulk of the ‘unoccupied’ part of the reserve was known to be low lying and unsuitable for housing, it had been recommended not to keep this land as part of the reserve because ‘the scrubland and swamps provide the seclusion ideal for drinking and gambling orgies and other forms of anti-social behaviour. The very nature of the land prevents adequate supervision by authority.’<sup>18</sup> The granting of citizenship rights had removed many of the old, if not completely effective, controls on camping near Bagot and in areas around the town.

In mid 1963, 313 people (183 adults and 129 children) had become permanent or semi-permanent residents at Bagot. However, the core of permanent residents became increasingly vocal in their opposition to the quartering of transients at the settlement.<sup>19</sup>

The internal frictions at Bagot had made the reserve an increasingly unattractive place for many Aborigines who found camps of their own outside the reserve. In December 1970 Margaret Moy, Margie Cooper and other women at Bagot helped put together a list of some thirty camps, although some were said not to be currently use. One of these was a site known as ‘*Galalak*’ - ‘camp this side (*Wanawininy*) for Larrakia – betw. Drive-in Theatre & place where flowers grown to sell. Jungle; spring – bubbling up.’<sup>20</sup> This is one of the earliest written records of Kulaluk, which was to become a well know place in Darwin less than six months later.

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<sup>18</sup> G. W. Smith to Administrator, 28 August 1964.

<sup>19</sup> H. C. Giese to Department of Interior, 21 October 1969

<sup>20</sup> ‘Aborigines Camps In/Around Darwin,’ 1970, DAA Library ‘camp’ files.

## **Gaining Official Recognition**

### **Early Days: The Claim and Official Reaction, 1971-73**

In May 1971, the month after the controversial Yirrkala land claim decision, a group of Larrakia Aborigines told the Darwin press that they would like to live permanently on vacant land behind the Paspalis Drive-in. Bobby Secretary ('Kooloomurinyee') and members of his family had camped there for six years and they wanted to stay away from Bagot, 'where there is much fighting among different tribes.' It was reported that their action resulted from 'rumours that members of the almost extinct tribe will be moved with others to Batchelor ... and plans to subdivide in the area and push a road through.' The Kulaluk waterhole was of special significance to them. Bobby Secretary was reported to have said: 'This is our land ... we belong here.' The group was advised by Bill Day, a white man who thought that 'the waterhole row could lead to another land rights claim.'<sup>21</sup>

Within days the group met with Harry Giese, the Administrator (Welfare), to put its case. Giese wanted to be satisfied that Bobby Secretary was the spokesman for the Larrakia. He pointed out that the 14 square-mile Larrakeah reserve was already allocated to the Larrakia. Bobby Secretary replied that his land was not Larrakia country.<sup>22</sup> To get more information, the Welfare Branch took Bobby Secretary and Norman Harris to Delissaville to talk with Tommy Lyons and other elders about the importance of the Kulaluk site. At this stage, the group was seeking only a small amount of land near the drive-in, even though they told the newspaper that Kulaluk stretched from Nightcliff to Bagot.<sup>23</sup>

The newspaper reports about the Larrakia claim caught the attention of Lands officers. Vern O'Brien, the Director of Lands, was interested in learning whether the press statements which had been made should be regarded as specific land applications; however, Harry Giese told him in early June that there had been no formal application, although there had been discussions held about the significance of the land.

In August 1971 the first edition of the newsletter *Bunji* appeared. It was edited by Bill Day, who was to become prominent as the tactician behind the land rights struggle in Darwin. Day was especially adept at

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<sup>21</sup> *NT News*, 20 May 1971; 25 May 1971.

<sup>22</sup> *NT News*, 29 May 1971

<sup>23</sup> *NT News*, 28 June 1971.

publicising the Larrakia's cause, and it was his newsletter that proved able to generate a good deal of attention and controversy in Darwin.

There was a setback in early September when the Welfare Branch announced that it had completed a 'very thorough investigation into the significance of the area.' The conclusion was 'that since women and other uninitiated people have been given access to the area, it can no longer be regarded as retaining any special significance.' This was taken as a rejection of the claim. Bobby Secretary's reaction was: 'If Mr Giese or anyone else wants to move us from Kulaluk they ought to have to pay us market value for the land. This is all we have left.'<sup>24</sup> They were not to give up easily.

Kulaluk claimed national attention in October and November 1971 after Bagot Road was blocked three times by Aboriginal protestors sitting in front of peak hour traffic. Cars were reported to be backed up for almost half a mile on one of these occasions, although each time it took only a short time for police to arrive.<sup>25</sup> Australia-wide attention was again achieved when Bobby Secretary, Harry Adam and three other Aboriginal men 'took possession' of Darwin by raising their flag on a pole outside the Supreme Court. Bobby Secretary was reported to have said: 'If it was good enough for Captain Cook to put up a flag and claim all Australia for the Crown then it is good enough for us to raise a flag and claim Darwin back.'<sup>26</sup> Newspaper accounts gave detailed descriptions of their flag: 'The flag was brown, with a red band at each end. In the centre was a green tipped representation of the Kulaluk Tree (after which the Tribe's sacred land behind the drive-in is named) over a jungle fowl's nesting mound.' The Aborigines had explained to the press that the red at one side was to represent the blood of the old people who had died for their land and the red at the other was for the blood which might be shed.<sup>27</sup>

The protests of late 1971 attracted an impressive number of Aboriginal supporters from other camps and towns. Early in 1972 the Gwalwa Daraniki Association was formed; it was to be formally incorporated under the Associations Incorporated Ordinance in 1973. 'Gwalwa Daraniki' was the name chosen by Bobby Secretary, which in the Larrakia language was said to mean 'our land.' Not only was the

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<sup>24</sup> *NT News*, 9 September 1971.

<sup>25</sup> *The Age*, 4 November 1971.

<sup>26</sup> *The Canberra Times*, 8 November 1971.

<sup>27</sup> *NT News*, 8 November 1971.

organization to be a practical mechanism for receiving funding, but it was also a symbol with which non-Larrakia demonstrators and sympathisers could identify. While the Gwalwa Daraniki Association was founded primarily to promote the cause of the Larrakia, it also advanced the claims of members of other tribes who had long camped on various pieces of land in the Darwin area.

One of the earliest actions of the Gwalwa Daraniki was to send the Prime Minister, William McMahon, a petition demanding Aboriginal land rights and proposing a treaty for each tribe. The reply, signed by Attorney General I. J. Greenwood on behalf of the Prime Minister, took the stance that it would not be appropriate to negotiate with Aboriginal groups as if they were foreign powers and sovereign states when Aboriginal Australians had been British subjects for nearly two hundred years. Among the reasons that no treaties had been made with Aboriginal tribes was that the nature of Aboriginal social and local organizations had made it impossible to identify with whom to negotiate. However, the Prime Minister said that ‘the Government understands the deep affinity of Aboriginal people for the land with which they have been associated.’<sup>28</sup> The release of this letter and the organization of various protests and demonstrations allowed the Gwalwa Daraniki to keep the Darwin land rights cause in public view throughout 1972.

In mid 1972 a formal attempt was made to see if the Larrakia could get legal title to the land they had claimed. The Aboriginal Development Foundation was anxious to assist the Kulaluk group to obtain land within their tribal territory. As a result, the ADF President, Bill Ryan, sent a letter co-signed by Bobby Secretary to the Lands Branch seeking comments on the practicability of granting a lease to the land surrounding the waterhole.<sup>29</sup> This move was controversial within the Gwalwa Daraniki because some members thought that freehold title was the only acceptable form of tenure.

The letter was taken seriously by the Lands Branch. It could have been regarded simply as a request for information, but it was treated as a formal application for land. The issue was sensitive – and election was less than six months away and the Australian Labor Party had announced a policy strongly in support of Aboriginal land rights. The Welfare Division was asked to get more precise details on the land being sought and to

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<sup>28</sup> W. McMahon to W. B. Day, 5 June 1972.

<sup>29</sup> W. J. Ryan to Director, Lands Branch, 7 June 1972.

comment on the merits of the application. Eventually a report came back from the District Welfare Officer that the Aborigines had staked out the corners of the area they wanted to claim with star pickets so that an accurate survey could be made. In an accompanying description the area was said to be 140 metres by 122 metres (about 1.7 hectares, or 4.2 acres) south-west of the drive-in theatre, with 'Kulaluk soak ... in the North-eastern corner.' The group wished to use the land for residential and gardening purposes. Some buildings had been put up: 'There are three tin humpies on the land. One better construction of sawn timber and galvanised iron (similar to old station type sheds) is partially completed. There is a small roofless toilet.'<sup>30</sup> In commenting on the claim, the Welfare Branch expressed doubts about the ability of the group to develop the area in accordance with its stated intentions and suggested that 'the applicants and their sponsors be asked to substantiate their ability to develop such a lease.'

In the Lands Branch, Vern O'Brien was aware of several grounds for rejecting the application for what apparently would have been a special purpose lease. The land, although vacant, had been acquired by the Commonwealth for a primary school. There was no incorporated body to hold title. There also appeared to be limited funds available for developing the land. He was aware, however, that the application was 'a little sensitive' and advised his immediate superior that 'we obviously need to know a little more before we can reject the grant of a lease proposal.' He proposed writing to the Aboriginal Development Foundation to find out the exact area being applied for, to whom the title would be granted and the development proposed on the area.<sup>31</sup> With a federal election only a matter of days away the Assistance Administrator wrote on the memorandum that 'it would seem desirable to withhold action until we know which way the winds are blowing in the near future.'

With the advent of the Whitlam Government and its commitment to land rights, the winds indeed appeared to be blowing in a new direction. In February 1973, only two months after it took office, the Government announced the Woodward Royal Commission into Aboriginal land rights and froze the leasing of land in the Northern Territory pending the outcome. While the Kulaluk claim involved only a small number of people

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<sup>30</sup> C. L. Clare to Regional Welfare Officer, 23 October 1972.

<sup>31</sup> V. T. O'Brien to Assistant Administrator, (Lands and Community Development), 27 November 1972.

and a few acres, it received a very large share of attention. Much exposure had already been achieved during the previous two years and the Darwin location meant that Kulaluk was easily accessible to outsiders wanting to assess the situation and politicians desirous of being seen to be doing something.

Shortly after Woodward's appointment the new Minister for Aboriginal Affairs, Gordon Bryant, met with members of the Gwalwa Daraniki Association at Kulaluk. Woodward himself visited Kulaluk at the beginning of June, and soon afterwards Bryant came again for a second time. Bryant may have sensed that 'open warfare' was imminent between the Aboriginal residents and Sabrina Holdings, which held the adjacent Agriculture Lease. As a result of his visit, the Minister asked his department to request the Department of the Northern Territory (now containing the Lands Branch) to assess the likely cost of acquiring the as yet undeveloped portion of the Sabrina subdivision.<sup>32</sup>

The relations between the company and the Kulaluk claimants had been hostile from the beginning. Sabrina had obtained the land in 1969 and in 1970 had obtained permission to subdivide it. The resultant intrusive work on the first stage of the development was given by Bobby Secretary as one of the motivations behind the original claim to the waterhole.<sup>33</sup> Soon afterwards, Bill Day complained about the bulldozer operators from the subdivision pushing over some of the few remaining palms from the former coconut plantation 'just for fun and to collect the nuts.'<sup>34</sup> In August 1972 the company cleared a 30 yard strip of mangroves along the foreshore fronting its block and removed large amounts of beach sand to fill low lying parts of its land.<sup>35</sup> This was illegal but the contactor involved said 'he believed he was performing a public service as he had noticed Administration and the City Council had both removed mangroves in other areas.'<sup>36</sup> In fairness it has to be said that in taking sand the company was merely doing what had been a long established practice since the area had become accessible to vehicles, with the wartime damage to the Bagot Reserve perhaps the worst case.

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<sup>32</sup> E. F. Dwyer to Minister for the Northern Territory, 6 July 1973.

<sup>33</sup> *NT News*, 20 May 1971.

<sup>34</sup> *NT News*, 28 June 1971.

<sup>35</sup> W. B. Day to Director, Lands and Surveys, 16 August 1972

<sup>36</sup> *NT News*, , 8 September 1972

Things took a turn for the worse when the road work for the eight acre Stage 2 began in May 1973, shortly before the visit of Judge Woodward to Kulaluk. At that time, Bobby Secretary and Fred Fogarty told the Judge that the group wanted to close off the road leading down to the beach from the first stage and keep the undeveloped land for the Aborigines.<sup>37</sup> Later, the Kulaluk Aborigines put up a sign informing potential buyers of the land claim. According to Bill Day, the sign was torn down and a man ‘threatened to shoot any Aborigines who put it back.’<sup>38</sup> On 5 July the Officer in Charge, Casuarina Police Station, reported receiving a complaint from the company that Aborigines had been removing survey pegs being laid by a private surveyor at the subdivision.

Violence erupted the next day, when five Molotov cocktails were thrown into the survey contractor’s truck and a worker and a policeman were attacked with a dog chain.<sup>39</sup> Three Aboriginal men were arrested as a result of the incident. David Daniels and Bobby Secretary were accused of disorderly conduct, while Fred Fogarty was charged with a series of more serious offences.<sup>40</sup>



**Above: Bobby Secretary is assisted on June 14<sup>th</sup>, 1973, to erect the sign warning Coconut Grove developers to ‘Buy or build at your own risk.’**

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<sup>37</sup> Aboriginal Land Rights Commission, Notes of discussion at Kulaluk, 2 June 1973.

<sup>38</sup> *NT News*, 13 June 1973.

<sup>39</sup> *NT News*, 7 July 1973.

<sup>40</sup> *NT News*, 7 July 1973.

With the dramatic escalation of the Kulaluk confrontation, the politicians in Canberra became worried that things were getting out of hand. A flurry of telexes and memoranda flew back and forth between officials in Darwin and Canberra as department heads and ministers sought information about just what was going on. On 9 July Fred Fogarty flew to Queensland and presented the Kulaluk cause to ministers Gordon Bryant (Aboriginal Affairs), Kep Enderby (Northern Territory) and Lionel Murphy (Attorney General), who were attending an ALP Executive Meeting at Surfer's Paradise. After receiving the representations, Bryant issued a press release saying he proposed to create a special committee 'to examine the position of the Larrakia people in order to complement any recommendation made by Mr Justice Woodward.' Both Bryant and Enderby were so concerned by the turn of events that each would journey to Kulaluk by the end of that same month.

In accordance with his promises, Bryant gave instructions to set up a committee of inquiry into the situation at Kulaluk; however, his departmental advisors counselled caution. The director of the Northern Territory Division of Bryant's department convinced his minister that it might not be a wise move at this time: 'Whilst appreciating the claims of this group one cannot put aside the national implications of what the Government will do here ... I wonder whether it would be preferable to await the outcome of the Woodward Commission deliberations rather than for any tribunal pre-conceiving what the outcome of the commission's recommendations will be.'<sup>41</sup>

As a compromise, and perhaps to save face, Bryant asked his land rights and legal advisor, Gareth Evans of the University of Melbourne Faculty of Law, to go to Darwin to ascertain independently the facts before Cabinet considered Woodward's final report.<sup>42</sup> By early October, however, there were two new ministers, Senator Jim Cavanagh (Aboriginal Affairs) and Rex Patterson (Northern Territory). Thus Evans' report probably received less attention than it otherwise would have.

In the four days he spent in Darwin, Gareth Evans had 'extensive talks with officers of the Aboriginal Affairs Department ... spokesmen for the Gwalwa Daraniki ..., Mrs Dawn Lawrie, and a number of other Aborigines, public servants, unionists and journalists.'<sup>43</sup> He found the

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<sup>41</sup> R. W. Henry to Minister for Aboriginal Affairs, 13 July 1973.

<sup>42</sup> B. G. Dexter to J. P. M. Long, 6 August 1975.

<sup>43</sup> G. J. Evans to Minister for Aboriginal Affairs, 8 October 1973.

‘most articulate spokesmen’ for the Gwalwa Daraniki to be Bill Day and Fred Fogarty. Day, he judged, had encouraged the group to make ‘extravagant claims and to pursue radical tactics to achieve them’ as part of ‘an elaborate ploy to ensure that at least some concessions are ultimately made. He is not incapable of discussing the issues rationally or making compromises.’<sup>44</sup> Of Fogarty, Evans said: ‘Though his background is not, apparently, such as to inspire much confidence, Fogarty also struck me as a person with whom it might be possible to discuss the issues calmly and rationally.’

The emphasis which Evans gave to ‘the ability to discuss the issues rationally’ was related to his apparent objective of taking ‘the immediate heat out of the Kulaluk situation.’ He felt that ‘the Aborigines actually camped at the camp site – especially Bobby Secretary and his family’ would be ‘reasonably happy’ if they were not disturbed in their camp in the western half of the block reserved for the school site and were not ‘built out’ by neighbouring development. ‘But it is equally apparent that they will be pressed by Bill Day and others to make a formal claim to title in, at the least, both their existing camp site and the Sabrina block bordering it to the south and that the Government will not be able to sit forever on this claim.’<sup>45</sup>

Evans was worried about the Sabrina land: ‘I have no doubt that if the Sabrina Holdings development is not stopped, there will be further major eruptions and embarrassments for the government.’ He therefore endorsed a proposal which had been put together by officials of the Department of Aboriginal Affairs and the Northern Territory to acquire the Sabrina land. He had been advised that ‘the suggested figure of \$105,000 is comprised of \$81,000 for this land and \$24,000 compensation for works already performed thereon (especially filling, much of which seems to have been, at least initially, done by illegal excavation of beach sand).’

Evans saw the Kulaluk camp site as having assumed a symbolic significance, ‘both to Darwin Aborigines and nationally.’ Even so, he had been told that the camp had been established only five years previously and that ‘cynics suggest, less because it was of traditional significance than because it was a convenient staging post for both the Seabreeze Hotel in Nightcliff and the Dolphin in Bagot Road. The waterhole on the site, if it

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<sup>44</sup> Evans, 8 October 1973.

<sup>45</sup> Evans, 8 October 1973

ever had significance, has no longer – at least since it dried up and a tap was installed nearby.<sup>46</sup>

As for the sites being claimed in the Darwin area generally, he found that the members of the Gwalwa Daraniki were reluctant to be specific as to ‘which were being claimed on behalf of others.’ He attributes this to the problem that the basis for all the claims had been that the Darwin area was traditional Larrakia land but most Aborigines in Darwin could not prove Larrakia descent: ‘This of course somewhat undermines the claims of those other Aborigines.’<sup>47</sup>

His research convinced Evans that the Bagot/Ludmilla Creek area was rapidly becoming ‘another “Kulaluk” situation.’ He suggested that ‘serious consideration be given to offering the land ... to such Aborigines as can establish an identity as Larrakia in whole or part satisfaction of their land rights claim.’ For three reasons he thought that a claim here would be ‘more firmly based’ than the one made to the Kulaluk camp site: Ludmilla Creek had been used for many years by Aborigines as a fishing ground; at least some of the land had once been part of the Bagot Reserve, and ‘there are a large number of Aboriginal grave sites (perhaps as many as two hundred) in the area.’<sup>48</sup>

The specific recommendation given by Gareth Evans was that the Government ‘acknowledge that surviving members of the Larrakia tribe as there are deserve consideration ... and that there would be *prima facie* case for vesting title in such a group, if its identity could be established.’ He also recommended that any land grant ‘would be conditional upon normal urban standards of housing and sanitation being observed’ and that an expert, ‘most obviously Professor Stanner,’ should conduct an inquiry to establish ‘who are Larrakia.’ Evans felt these recommendations would be the right course to follow because Judge Woodward’s final report was ‘unlikely to produce any conclusive results to problems of this kind’ and that waiting would only postpone and make more difficult their resolution. ‘By taking the initiative ... rather than merely waiting for events to take over – as I suggest they almost inevitably will – the Government could do much to defuse the whole land rights issue in Darwin, and by insisting on Larrakia-status as a criterion for the vesting of such land, no politically embarrassing

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<sup>46</sup> Evans, 8 October 1973

<sup>47</sup> Evans, 8 October 1973.

<sup>48</sup> Evans, 8 October 1973.

precedent would be set for the resolution of land rights claims by fringe-dwellers in the southern states.<sup>49</sup>

In December 1973 Cabinet decided to negotiate with Sabrina Holdings to defer development of its subdivision until December 1974. Contrary to Evans' confidential advice, the Government was buying time to await the foreshadowed second and final report of the Aboriginal Land Rights Commissioner.<sup>50</sup>

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<sup>49</sup> Evans, 8 October 1973.

<sup>50</sup> Press statement by J. L. Cavenagh, 5 December 1973.

## The Woodward and Ward Reports, 1974 – 1975

Kulaluk had been one of the areas dealt with in Mr Justice Woodward's first report, which was released in early August 1973, about a month after the fire bombing incident. When he had visited Kulaluk in June, Woodward had been presented with a claim for compensation for lost land and a draft Larrakia land treaty. He rejected both of these proposals. However, he did recognise that 'the Larrakia group raises some special problems. Clearly they are entitled to consideration as a group wanting to live as a small community and to do so on some part of the traditional lands of their own tribe.' However, Woodward wanted to give some consideration to whether they should be able to choose the particular site they had in a developing city. He noted that he 'would welcome further submissions on the question of the principle involved.'

In March 1974 an agreement was reached between the department and Sabrina Holdings in which development of the second stage was deferred until December of that year in return for compensation totalling \$52,886.28. Otherwise there was little action on Kulaluk as all parties waited for Woodward to file his second report. During the 1974 election campaign, however, the Kulaluk issue was kept in the local headlines when *Bunji* published what was probably its most controversial edition.<sup>51</sup> It gave detailed instructions on how to make a petrol bomb, stating: 'If the Liberal and Country Party wins the next election on May 18<sup>th</sup> it will be no good throwing stones.' The Northern Territory ALP did not appreciate this sort of help, however, and it did everything it could to disassociate itself from the edition of *Bunji*.

The second Woodward report was released publicly soon after the May election. In his short section on Kulaluk the Judge called on the government to 'proceed to the acquisition of this general area for Aboriginal living purposes, paying the necessary compensation to those whose interests in the land would be extinguished by such acquisition.' Such action would 'demonstrate clearly the Government's willingness to give effect to reasonable Aboriginal aspirations for land.' He added that Kulaluk had 'become something of a symbol of the stand which Aborigines, with the help and guidance of many different sources, are now making against the tendency to put their interests last in any consideration of land usage.' The credit for the attention that had been gained for the

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<sup>51</sup>*Bunji*, April 1974

Larrakia cause and the Gwalwa Daraniki he gave to ‘the secretary of this organization, a white man, who has achieved remarkable results in obtaining press coverage and other forms of publicity for [their] claims.’<sup>52</sup>

The area of land to be included in the Kulaluk claim was a matter about which Woodward was vague: ‘I am not in a position to suggest the precise amount of land which should be resumed. However the intent of my recommendation is that the major part of the area should be resumed. Sooner or later it will be put to a useful purpose and, in the meantime, the preservation of an area of open space would have its advantages.’ From his use of the word ‘resumed,’ it is doubtful whether Woodward was considering the large area of vacant crown land which was once part of the Bagot Reserve.

Justice Woodward expressed strong doubts about the ability of the Gwalwa Daraniki to manage the land unaided: ‘its numbers are too small and its dependence on its white advisor too great.’ Thus he believed that for the time being at least, the title should be held by trustees nominated by the Northern Land Council: ‘No doubt the special interests of the Larrakia people would be remembered when such trustees were appointed.’ He also envisaged that with the development of the area and a greater number of Aboriginal residents title could be transferred to the local community.

For a number of reasons, the Commissioner believed that title should be leasehold rather than the Aboriginal titles he had recommended for the non-urban areas. Firstly, he did ‘not believe traditional ownership in the sense in which that expression is used throughout this report could be established in Darwin.’ Also, he saw ‘no point in granting a special form of Aboriginal title to the small minority of urban Aborigines able to establish traditional claims to a particular area, when they have been living as part of a largely non-Aboriginal community.’ Finally, ‘neither of the Land Councils had asked for anything else than leasehold title in towns.’ Woodward also stated that the position would be different if freehold were the normal title.<sup>53</sup>

While the excuse for lack of action had previously been the need to await the Woodward report, the bureaucracy now found it hard to act without the supporting legislation recommended in the report. Over four months passed before the Canberra office of the Department of Aboriginal Affairs advised the Department of the Northern Territory: ‘What we as a

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<sup>52</sup> Woodward, A. E. *Second Report of the Aboriginal Land Rights Commission*, April 1974

<sup>53</sup> Woodward, A. E. *Second Report of the Aboriginal Land Rights Commission*, April 1974

Department seek in relation to Kulaluk is that before the Government's agreement with developers expires later this year a property comprising only the site where the Aboriginals are at present located plus the stage 2 development should have been created for vesting in the Northern Land Council (the latter being Woodward's recommendation).' DAA suggested that after the appointment of a Land Commissioner further additions 'to this basic property' could be made.<sup>54</sup>

The Darwin office of DAA had reservations about this approach. In a move supported by the Northern Land Council, the Gwalwa Daraniki had used its own interpretation of the Woodward Report to make an enlarged claim which included much of the vacant crown land once part of the Bagot Reserve as well as several private leases. Stating that 'the area called Kulaluk in the Woodward Report is almost certainly different from the area now called Kulaluk by the Gwalwa Daraniki,' the Darwin office agreed that 'the Gwalwa Daraniki have every right to make the claim they have.' To support this, Darwin DAA contended that 'the spirit of the Woodward Report on urban areas needs to be borne in mind.' If only the two small pieces of land near the waterhole were to be granted, then there was a danger that 'the area of town land in the Darwin area including Bagot for Aboriginal use will be quite small.' In any case, a letter strongly resisting a 'bits and pieces approach' had already been received from Bill Day. Most importantly, in respect to any sort of claim the Darwin office was 'not yet convinced that the Dept. of N. T. Urban Development Section is as sympathetic as it might be.'<sup>55</sup>

In October a 'proposed land usage plan' for the whole area being claimed was received from Bill Day. Darwin DAA told Central Office: 'This includes large areas to be retained for public access as fauna and flora sanctuaries... We believe this proposal is imaginative and is an attempt to make the area at least partly into one of Aboriginal cultural significance. The fauna and flora sanctuary proposals may of course attract interest and support from environmentalists.'<sup>56</sup> Among the developments proposed were a ceremonial ground, camping areas, a transient hotel, a land rights museum, a sports club, Aboriginal playing fields and possibly some City Council controlled playing fields.

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<sup>54</sup> B. G. Dexter to T. A. O'Brien, 2 October 1974.

<sup>55</sup> T. C. Lovegrove to J. P. M. Long, 25 October 1974.

<sup>56</sup> T. C. Lovegrove to J. P. M. Long, 25 October 1974

The Kulaluk claim gave the appearance of moving towards resolution when in December Cabinet gave 'in principle' approval for the grant of a lease over the total area claimed by the Larrakia in Darwin. The final handover was subject only to the completion of various negotiations for the acquisition of the private leases.

The Minister for the Northern Territory, Rex Patterson, was absent during the Cabinet meeting at which this decision was made. Central office of DAA thus recognised that there might be problems ahead as the Department of the Northern Territory (DONT) would have a strong case to put for the exclusion of an area for the proposed Palmerston Freeway, a future dump and a public recreation area.<sup>57</sup> Indeed, Patterson was strongly counselled by his department that land administration fell within the responsibility of his portfolio and that there were a number of planning commitments for the area. He was also asked to 'insist on further discussions with the Department of Aboriginal Affairs on this issue.'<sup>58</sup>

Whatever chance there had been of a quick resolution to the Kulaluk issue ended on Christmas Eve 1974 when Cyclone Tracy hit Darwin. In the aftermath a freeze was put on the granting of any new leases until the newly formed Darwin Reconstruction Commission could make its land use determinations. In addition, the work of government departments was greatly slowed by the hasty dispersal of staff and the records away from Darwin.

Things seemed to be moving ahead again in April 1975 when Mr Justice R. C. Ward was appointed Interim Aboriginal Land Commissioner pending legislation which would establish the Aboriginal Land Commission itself. The first claim he investigated was Kulaluk, and evidence was heard in the last days of May.

Immediately, there arose the problem of exactly what area was under consideration. The original publicity of 1971 had focused on a claim for the small area near the waterhole. By mid 1973 this had grown to about 16 acres in the western halves of the school reserve and the Sabrina lease, but Justice Woodward subsequently noted that claims on behalf of the Larrakia were also made to the 660 acres that were once part of the Bagot Reserve, several sites of special significance in Darwin, and the 14 square mile Larrakia Reserve. As Woodward chose not to determine exactly what was being claimed nor what should be granted, there was still confusion as

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<sup>57</sup> B G Dexter to H M Ford, 17 December 1974.

<sup>58</sup> E F Dwyer to Minister for the Northern Territory, 17 December 1974.

to who was talking about what land. Justice Ward began his hearings on the basis that the claim area consisted of the vacant crown land that had once been part of Bagot and the undeveloped portions of several crown leases in an area stretching from Nightcliff to Ludmilla Creek, and accordingly this area had been presented for public comment. When the hearings started, however, an amended claim put forward with the support of the Northern Land Council had grown to include half the nearby suburb of Ludmilla, the Tropicus Nursery, all of Bakhita Village, Sabrina's Stage 1, and the drive-in theatre. This move caused divisiveness among Kulaluk supporters and met strong public reaction. Within days, Ward was able to persuade the Gwalwa Daraniki and the Northern Land Council to exclude the developed land from the claim.

When Justice Ward filed his report on 23 June 1975, it was to a new Minister for Aboriginal Affairs, Les Johnson. Ward's major recommendation was that a special purpose lease be granted over the area claimed 'for the purpose of establishing, developing and maintaining a communal settlement for the use of the Larrakia and other associated Aboriginal peoples and ancillary purposes.'

The recommended 847 land area of the lease extended from the drive-in theatre as far south as Ludmilla Creek. Much was crown land, but there was also undeveloped land in the leases held by Paspalis Drive-in Theatre Pty Ltd and Sabrina Holdings Pty Ltd, the whole of the Catholic Church's Bakhita Village property and Henry Lee's Agricultural Lease. All of this land had once been part of four Agricultural Leases surveyed in the 1890s. Two of the leases had eventually been merged to form the Bagot Reserve in the 1930s while the other two has changed in ownership and tenure a number of times before being compulsorily resumed by the Commonwealth in 1946 under the Darwin Lands Acquisitions Act, to later be re-subdivided as small Agricultural Leases for returned soldiers. Bakhita Village and Henry Lee's land, as well as a sizeable amount of still vacant crown land, were part of the pre-war Section 838. This old freehold (originally Right of Purchase Lease No. 3 issued to David Daniels in 1897) was cut roughly in half by Coconut Grove Road during the post-war subdivision. Only the western portion (with the exception of the Tropicus Nursery) was in the claim. The nearby Coconut Grove area was originally surveyed as Agricultural Lease No 7, held by M. D. Armstrong and M. Laurie from 1893 to 1895. The drive-in theatre, the primary school reserve and the Sabrina Holdings land were on the pre-war freehold, Section 840,

which was Laurie's share when the original Coconut Grove Agricultural Lease was split. Sections 840 changed owners several times before being resumed in 1946.

The land in the claim could hardly be regarded as prime urban land. Large parts of it were low-lying and swampy, while much of the rest had long served both official and unofficially as a source of soil, sand and gravel for Darwin or as a repository for the city's rubbish. The land was mostly within the newly differentiated tidal surge zone and below the increasingly busy airport flight funnel, with noise exposure factors (NEF) already above the acceptable levels for residential development.

Ward thus took a number of planning considerations into account when making his recommendations. He had been told that the Darwin Reconstruction Commission had abandoned previous plans to put the Palmerston arterial road through the claim area, and he knew that the primary surge zone concept and N.E.F. limitations would preclude residential development of much of the land. He agreed that the camping, communal and conservation purposes which had been proposed would be completely compatible with overall plans for the use of land in Darwin.

In accordance with the recommendation of Justice Woodward, Ward wanted the lease to be granted to **trustees** nominated by the Northern Land Council. He further recommended 'that the rent of any such lease be nominal, that there be no onerous improvement conditions, but that all conditions be broad and flexible, with conditions designed to preserve the existing environment where it has significance and is capable of preservation.'

With the completion of the Woodward and Ward inquiries, both a justification and a proposed course of action were available to satisfy the Kulaluk land claim without need for recourse to the foreshadowed Aboriginal Land Rights Act. All recommendations could be carried out under existing legislation with the one exception being the need to amend the Local Government Ordinance to make provision to exclude the lease from the payment of municipal rates if the land were used for the purposes which had been proposed. Ward was concerned enough about the potential magnitude of the problem that he was moved to append a letter on the subject form Hugh Bradley, the solicitor from the Northern Land Council, to his report.

## Processing the Claim, 1975-78.

When filing his report with the Minister, Justice Ward emphasised that it was of utmost importance to make a statement as early as possible indicating the area of land to be granted and the conditions which would apply. Johnson quickly endorsed Ward's recommendations and sent letters to the Aboriginal Land Fund Commission (ALFC) and the Minister for Northern Australia asking for support.

The ALFC was urged by the Minister to give approval in principle to the provision of funds for the acquisition of the private leases. This was expected to be in the order of \$400,000 to \$450,000, including \$150,000 already approved at the end of 1974 for acquiring the land for Sabrina Holdings. The Chairman promptly responded that the Commission had already 'decided in principle to purchase areas recommended by Mr Justice Ward, subject of course to valuation.'<sup>59</sup>

The Minister for Northern Australia was asked to request his department to commence drafting the required lease documents, but Patterson's officials were not as quick as the ALFC to fall into line. In fact, they felt once again that others were meddling in their area of responsibility; they viewed Johnson's public statements on the Ward report as giving a commitment to grant a lease without consulting them. Nevertheless, DONT did request the Surveyor General to proceed with a survey of the claim area. There was, however, strong resistance to Ward's recommendation to exempt the claim from municipal rates since this would set a bad precedent. Rather, an administrative arrangement was sought in which an outside body such as the Aboriginal Land Fund Commission would make the rate payments on behalf of the lease holders.<sup>60</sup>

To some supporters of the Kulaluk land claim, the announcement of Ward's recommendations meant the struggle was over, but others were not so sure. *Bunji* (August 1975) warned: 'Some parts of Kulaluk must be bought back before the land is handed over. On that day we will believe and celebrate, not before.'

One result of the apparent victory in the Ward report was that the Kulaluk community began to divide into factions. These divisions surfaced during a visit to Kulaluk by Les Johnson on 10 August 1975. Afterwards, *Bunji* (August 1975) put one side of the story: 'When Les Johnson visited

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<sup>59</sup> C D Rowley to L R Johnson, 11 July 1975.

<sup>60</sup> V T O'Brien to Minister for Northern Australia, 9 October 1975.

Kulaluk, a few people spoke outright lies about the [book keeping] work of Bill Day... certain people are hereby warned that if they continue with there lies, then they will be sued for libel and slander in the court house.’ From the other side, a letter to the Minister expressed apologies for ‘the behaviour of certain people ... We did not want your time wasted on silly talk. Maybe next time we will be able to speak for ourselves.’<sup>61</sup>

The trigger for this dissention seems to have been the digging of a sewerage line behind Bakhita Village. *Bunji* (August 1975) claimed that a trench ‘one hundred feet wide and fifteen feet deep’ had been bulldozed through the jungle for ‘one small pipeline.’ The Northern Territory Director of DAA described it more modestly as ‘an excavation about 30 feet wide and 10 feet deep’ for a 24 inch pipeline, although he did agree that ‘damage to the Rain Forest is certainly substantial and despite agreements to rehabilitate the area is probably permanent.’<sup>62</sup> Evidently, some members of the Kulaluk community had made an agreement with the contractor which allowed him to commence work and to remove sand ‘in return for a bridge over a drain, and toilet and ablution facilities.’ A Lands Branch official who was advised about the apparent deal had ‘some doubt about it as it seems a fairly one-sided arrangement.’<sup>63</sup>

At the end of 1975, the prospects for the Kulaluk land claim were not as bright as they had seemed a year before with the ‘in principle’ Cabinet decision and then later with the Ward report. The unity of the group which had strongly supported Larrakia land rights was broken by internal wrangling and the individuals who had helped generate most of the publicity had been alienated from it. The Ministers who had taken a personal interest were gone. The legislation which would have given a stronger legal basis to the claim had lapsed when Federal Parliament was prorogued with the fall of the Whitlam Government on 11<sup>th</sup> November. Finally, there was a new Government determined to cut ‘frivolous’ expenditure and which was less committed to Aboriginal land rights.

With uncertainty and new political masters, the bureaucracy, too, had lost much of its momentum in working towards a resolution and again the time had come when it was best to await political direction. An Aboriginal Land Fund Commission officer attempting to summarise the situation in early December 1975 reported that little action was underway.

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<sup>61</sup> A Henda and J Fejo to L R Johnson, 25 August 1975.

<sup>62</sup> T C Lovegrove to L A J Malone, 28 August 1975.

<sup>63</sup> Note for file by K M Maynard, 21 August 1975.

Services and Property had done little to open, much less complete, negotiations for the private leases. The Department of Northern Australia did not intend to take any action to transfer the vacant crown land to the Larrakia until the end of negotiations for the private leases was to prod Taxation for valuations in about a fortnight, but ‘his attitude is one that he may not have to do anything after that date.’<sup>64</sup>

Despite all this, the work on Kulaluk did not completely languish. In late December, 1975, the Acting Assistant Secretary of the Lands Branch followed up on an earlier ‘joint inspection’ of Kulaluk by asking the Northern Land Council for advice regarding easements and related matters. Written agreement was sought from the proposed leaseholder, the Northern Aboriginal Land Committee Inc, the earlier name for the NLC.<sup>65</sup>

In its haste to answer this letter, the NLC completely ignored Woodward’s reservations about the suitability of the Gwalwa Daraniki to hold and manage the lease in its own right. In fact, the report itself was used as a justification for turning the recommendation on end: ‘In following the direction of the Woodward Report, the Northern Land Council appoints trustees on advice from the traditional owners of the area. This now has been finalised and the names of the persons thus appointed are: Bobby Secretary, Topsy Secretary, Albert Mariga. We understand that these persons will be at the same time the official leaseholders on behalf of all people connected with Kulaluk. If the Government sees fit to change the original interpretation of the Woodward Report you will be immediately informed.’<sup>66</sup>

The method of choosing the trustees was based more on chance than on thoughtful deliberation. Finding that answers were needed to the Lands Branch correspondence, the NLC sent an officer to Kulaluk early on a Tuesday morning ‘to bring the trustees ... to the Northern Land Council office.’ Apparently an objective was to find Johnny Fejo, who was unavailable - it was explained that he did not often sleep at the camp. The NLC officer later reported that ‘Topsy Secretary suggested that it would be better if all the trustees were people living permanently at Kulaluk.’ Those brought to the NLC office for the 8.00 a.m. meeting were ‘Bobby

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<sup>64</sup> Note for file by A O Campbell, 3 December 1975.

<sup>65</sup> T R Lawler to Secretary, Northern Land Council, 23 December 1975.

<sup>66</sup> J H A Wilders to T R Lawler, 14 January 1976.

Secretary, Topsy Secretary and David Secretary [sic].<sup>67</sup> The first item of business was to agree to the trustees, and then most of the proposals made in the Lands Branch letter were ratified by the two trustees present.<sup>68</sup>

The agreements with the trustees allowed the Lands Branch to advise DAA that negotiations regarding easements, access by the public to the beach and the boundary along Ludmilla Creek had been reached.<sup>69</sup> In the meantime, DAA had made another attempt to get the Department of Administrative Services to move on the acquisition of the private leases.<sup>70</sup> The new Minister for Aboriginal Affairs, Ian Viner, had received a letter from the solicitor for Sabrina Holdings inquiring what the Government intended to do about his client's land. The reply was: 'With regard to the Government's future proposals I would confirm that the previous Government's decision with regard to the Kulaluk land claim will be upheld... I am satisfied that all possible action will be taken to resolve this matter as expeditiously as possible.'<sup>71</sup>

While Labor ministers had been eager to be seen to be doing something with respect to Kulaluk, the lease was not an urgent issue for the Fraser Government. In fact, during a period of belt tightening the central office of DAA learned that Cabinet was interested in Kulaluk as a possible area of 'waste and extravagance.' Suddenly, the ALFC had second thoughts about its position in regard to the acquisition of the private leases, especially as there were doubts about the final amounts to be paid with the prospect of court appeals should the land be compulsorily acquired: 'Under the current Government financial restraints, the Commission would be hard-pressed to find extra funds for that land as well as service its other demands.' The ALFC was particularly wary of the intent of Sabrina Holdings, and DAA was informed that unless the land could be acquired by agreement with the company the Commission believed 'that it would be an improper use of its funds to finance the transaction.'<sup>72</sup> This development led one anonymous DAA official to remark that 'everyone is getting cold feet on this matter.' Finally, the decision was made within DAA to delay further action until Cabinet had decided what was to be done.

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<sup>67</sup> Note: This could be either David Daniels or Gabriel Secretary. There was no David Secretary at Kulaluk.

<sup>68</sup> R L Collins to Secretary, Northern Land Council, 13 January 1976.

<sup>69</sup> V T O'Brien to Director, Department of Aboriginal Affairs, 12 March 1976.

<sup>70</sup> H M Ford to Chief Property Officer, 20 February 1976.

<sup>71</sup> R I Viner to C A Black, 6 April 1976.

<sup>72</sup> R C Simpson to B G Dexter, 5 October 1976.

By late 1976 the main pressure for action on Kulaluk was coming from the affected landholders, particularly Sabrina Holdings. Little has been heard from the Aborigines or their advisors over the previous year. In December DAA, discomfited by the lack of progress in what its officials had come to call ‘the complicated saga,’ circulated a draft Cabinet submission to other departments to test support for the Kulaluk claim. Comments from other departments, including some which had previously not been directly involved, indicated that the Government’s tight fiscal restraint had taken hold and a proposal strictly along the lines of Ward’s recommendations would not be supported. There was increasing resistance to the acquisition of any private leases, both on the basis of cost and on the possibility of adverse publicity if so much money were to be expended for the benefit of so few people. Doubts were expressed about whether it was appropriate to consider compulsory acquisition of private land when the authority for doing so came from a decision by a previous government. Also, Darwin was growing more rapidly than had been forecast immediately after the Cyclone Tracy and the Darwin Reconstruction Commission’s judgement that an arterial road through the claim would not be needed was being reassessed.

If there was ever a time of real danger that the commitments which had been given on Kulaluk might be negated, it was during the first half of 1977. The Department of the Northern Territory, which had never been enthusiastic about the claim, seized upon the passage of the *Aboriginal Land Rights (NT) Act, 1976* to elicit two key opinions from the Crown Law Office. In the first, the view was held that since the Act excluded alienated crown land in a town from Aboriginal land claims, ‘it is not appropriate to acquire privately owned land in order to make a grant of such land to Aborigines who originally made a claim under proposed legislation which never became law.’ However, the vacant crown land could still be issued under a special purposed lease.<sup>73</sup>

Thus, the Secretary of the Department of the Northern Territory wrote to his counterpart in DAA that he had reservations ‘about the use of the compulsory process in acquisitions that may be questioned.’<sup>74</sup> Later, the Minister for the Northern Territory pointed out that there was also a

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<sup>73</sup> F V Reintano to secretary, Department of the Northern Territory, 24 January 1977).

<sup>74</sup> R S Livingston to D C Hay, 24 January 1977.

‘competing public interest for use of the land including the connector road.’<sup>75</sup>

In the second opinion, DONT learnt that the Government had not been legally committed to Justice Ward’s recommendations because the 1975 Bill under which they were made never did become law. The Crown Law Office did warn, however, that ‘the political aspect may be very different as the Kulaluk people may think that the Government has bound itself legally. I cannot advise on this aspect of course.’<sup>76</sup>

The only real efforts towards a resolution of the Kulaluk issue during this period were those of a small number of officers within the Department of Aboriginal Affairs. After a great deal of discussion and compromise they were able to get other departments to agree to the wording of a submission which was ready in October 1977 to be presented to Cabinet. However, during all this time the Kulaluk community was left uninformed about possible modification to Ward’s recommendations, particularly the question of possible future rate payments and the lack of progress in the acquisition of the private leases. The Minister for Aboriginal Affairs was told by his Deputy Secretary that ‘the main purposes of the submission are to obtain Government endorsement of the decision not to proceed with compulsory acquisition of the Sabrina Holdings block (which could attract criticism from leaseholders as well as Aboriginals and their supporters) and of the issue of a lease (in order to ensure that DONT does not obstruct or delay indefinitely).’<sup>77</sup> As it happened, the day the submission was to be considered was the same day that the December 1977 federal elections were announced. As a result, the submission was deferred until after the election.

However, the 1977 election stirred the parties who were directly affected by any Kulaluk decision to again press more vocally for action. In contrast to the election two years before, Aboriginal issues played a visible part in this campaign though concentrating mainly on the question of mining on Aboriginal lands. The public discussion of such issues in the press combined with the inevitable promises being made by politicians led both private leaseholders and Kulaluk people and their supporters to demand that the Government meet the commitments which had been made in the past.

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<sup>75</sup> E Aderman to R I Viner, 11 July 1977.

<sup>76</sup> FV Reitano to Secretary, Department of the Northern Territory, 17 June 1977.

<sup>77</sup> J P M Long to R I Viner, 7 November 1977.

Soon after the election, the NT Majority Leader, Paul Everingham, telexed Ian Viner on behalf of Sabrina Holdings asking that something be done to bring about a 'just conclusion' of the negotiations over the Stage 2 land and to end the 'inconvenience' which had been caused to the company. He also mentioned that the 'Aboriginal people who made this claim in the first place have been left up in the air for a period of about 4 years... I believe it is more irritating to all these people that no decision is made than it would be if a decision were made which is not wholly favourable to one group or another.'<sup>78</sup>

The election also brought the newsletter *Bunji* (January 1978) back into action. It had appeared only on an irregular basis over the previous two years and it had not had much to say on Kulaluk during this time. Bill Day's estrangement from the people living at Kulaluk had ended and Kulaluk once again was able to make at least the local headlines. *Bunji* now called for 'a full and open inquiry into just what had been going on in secret about these leases. We want to know exactly what deals have been made between Sabrina Holdings and the Government. Perhaps Ald Cec Black can help. Let the public hear the full story of the eight years of conniving between Henry Lee and the bureaucrats!' Despite the actual lack of success that these parties had been having in their negotiations, the complaints were covered by local radio and television. The Kulaluk community was lifted from its two year lethargy as it tried to enlist the aid of the North Australian Legal Aid Service and the Aboriginal Development Foundation in assisting with the claim.

Cabinet finally made a decision in mid March 1978. In effect, the decision split the claim into two parts, the vacant crown land and the private leases. The Minister for the Northern Territory was to make arrangements for a lease over the crown land, but to satisfy the demands of DONT the lease was to allow for a 'road excision ... at no cost to the Commonwealth.' At first sight, Cabinet also supported the acquisition of the private leases since the Minister of Aboriginal Affairs was asked to arrange for the Aboriginal Land Fund Commission to consider the purchase of any of the four privately leased areas. However, Cabinet also stipulated that any acquisition had to be financed with moneys already allocated to the ALFC.

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<sup>78</sup> P A Everingham to R I Viner, 12 January 1978.

Ingeniously, the Government had found a way to give the appearance of accepting all of Justice Ward's recommendations, while at the same time putting itself into a position where it could sidestep responsibility for the implementing the decision and let the blame fall on others where Ward's intentions could not be fulfilled. The functions of the Department of the Northern Territory were at the time being fortuitously transferred to the NT Legislative Assembly in anticipation of self-government on 1 July 1978. This relieved the Commonwealth of many of its responsibilities in relation to Kulaluk. Also, the Chairman of the ALFC was told that 'the Government had decided that it should be left to your Commission to consider whether the purchases of any of these areas should be added to the lease ... having regard to the Commissions' priorities within its available funds.'<sup>79</sup>

To compound the cynicism of the exercise, a critical part was left out when the decision was announced on 30 March 1978 in a ministerial press release which had been drafted in the Canberra office of DAA. For unknown reasons, the clause relating to the road excision was not included, nor was it mentioned in a letter to the Majority Leader that formally advised him of the decision.<sup>80</sup> It was, however, relayed to officials of the new Northern Territory departments which had been created during the transitional period before self-government. A request went from the Planning Unit to the Department of Transport and Industry to provide 'for a bypass road in lieu of the proposed Palmerston Arterial and Ludmilla-Fannie Bay Connector alternatives of the past.'<sup>81</sup>

After the decision was announced, pressure was put on the ALFC to purchase the private leases. In early April, the Gwalwa Daraniki 'Movement' told the Commission that 'the vacant crown land, without the leases included, would not be satisfactory.' Acquisition was sought, even though 'we realise that the lessees are asking exorbitant compensation.'<sup>82</sup> In May, Sabrina Holdings' solicitor pleaded to the Minister: 'Please do all you can to hasten the purchase...'<sup>83</sup> The Minister's short reply gave the advice

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<sup>79</sup> R I Viner to C D Rowley, 6 April 1978.

<sup>80</sup> R I Viner to C D Rowley, 6 April 1978.

<sup>81</sup> M Hardy to J V Hewitt, 21 April 1978.

<sup>82</sup> W B Day to secretary, Aboriginal Land Fund Commission, April 1978.

<sup>83</sup> CA Black to R I Viner, 16 May 1978.

that the purchase of any of the four privately held leases 'is now up to the Commission.'<sup>84</sup>

The ALFC was not in a good position to seriously consider buying any of the private land. While it did still hold the \$150,000 'earmarked' in 1974 for the acquisition of the Sabrina land, this was not likely to go far towards meeting acquisition costs. In any event, the Commission had been operating under direction from the Minister not to purchase land in metropolitan areas. (Labouring under such constraints, the only 'positive' decision the ALFC took with respect to Kulaluk was to pay the Corporation of the City of Darwin \$22,836 as compensation for work which had previously been done on an unfilled dump site on the vacant crown land.)

The Sabrina land, as the most strategic and controversial of the private leases, presented special problems for the Commission. At over \$300,000, the asking price was prohibitive in itself. In addition, the Commission suspected that what Sabrina's solicitors really were pressing for was for the land to be compulsorily acquired so that appeals could later be made to the Court for additional compensation. In any event, the ALFC considered that purchase by compulsory acquisition was not within its powers. Thus, in August 1978 the Commission 'reluctantly decided that it cannot purchase any of the properties.' However, it would investigate the possibility of acquiring a small amount of land from Sabrina in order to provide access to the Kulaluk camp site. The ALFC was not hopeful that Sabrina would accept such a proposition.<sup>85</sup>

Sabrina had not been simply waiting to see what would happen but had attempted to force the issue. In early August a letter to the Chief Minister advised that the land had been rezoned for residential development and that the company expected the cooperation of the police to allow the work to be 'carried out without any interference by other persons.'<sup>86</sup> In another letter, Sabrina's solicitor told the Minister for Aboriginal Affairs that the Commonwealth Government would have 'to bear the responsibility for any ugly situation which might occur during the further development.' He also threatened to 'seek damages for delay and increased subdivision costs since the end of 1974.'<sup>87</sup> A third evidently was sent to Bobby

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<sup>84</sup> R I Viner to C A Black, 9 June 1978.

<sup>85</sup> C D Rowley to R I Viner, 4 September 1978.

<sup>86</sup> C A Black to P A Everingham, 4 August 1978.

<sup>87</sup> C A Black to R I Viner, 4 August 1978.

Secretary, who in late August sent a telegram to Ian Viner complaining of a 'provocative and threatening letter from Sabrina Investment Ltd.'

In August the surveyors arrived to measure the road. Since the excision of land for a road had not been made public previously, there was a strong reaction by the Kulaluk people against this unforeseen event. They would not allow the survey staff to enter the area. *Bunji* (September 1978), under the heading of 'Stop this Highway!' published a 'secret telegram' advising DAA's Darwin office of the Cabinet decision on Kulaluk made in March. It was accurate even to reproducing the misspelling, 'ecision', which had been in the telex. As a result of the complaints, the Aboriginal Development Foundation was formally advised of the wording of the decision and at the same time was told that the NT Department of Lands and Housing would be making arrangements for an appropriate lease to be offered to the Kulaluk group.<sup>88</sup>

The comings and goings of various government officials during this time exacerbated the uneasiness of the Kulaluk community. A DAA official reported to his department that 'the KULALUK people are extremely confused as to who and why different people are working at KULALUK...' At about this time there was a falling out with the Aboriginal Development Foundation, which was said to be getting the blame for the frustration the people were feeling over their dealings with outsiders.<sup>89</sup>

The stiff resistance to the road excision resulted in a letter from the Chief Minister reminding the Minister for Aboriginal Affairs that it was Mr Viner's press release which had made the controversial omission and demanding that he ensure that the Aborigines cause no further delay in the development of a new arterial road to the rapidly growing Northern Suburbs. The Chief Minister stated that the road project would proceed even if the goodwill and cooperation of the Larrakia people could not be achieved. He also suggested that resistance to the project would be reduced 'if negotiations about the private land could be concluded quickly, especially those which would involve Sabrina Holdings.'<sup>90</sup> He got a fairly curt reply advising that the provision of urban roads was now the responsibility of the Northern Territory Government, that Cabinet had empowered the ALFC to acquire the private leases and that the ALFC had

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<sup>88</sup> W Ivory to Area Officer (Darwin), 25 September 1978.

<sup>89</sup> W Ivory to Area Officer (Darwin), 25 September 1978.

<sup>90</sup> P A Everingham to R I Viner, 18 September 1978.

decided not to purchase any of the private land.<sup>91</sup> Clearly, Mr Viner was not going to buy back into a problem that the Government had so nicely extricated itself from.

In a subsequent meeting with Bobby Secretary, Albert Treeves and Geoff Eames (an NAALAS solicitor), the Chief Minister was quoted as saying: 'I would be lying if I said there was any way this road will not proceed.'<sup>92</sup> There seemed to be no more room for bargaining and the Kulaluk people acquiesced to the road in return for a speedy hand over of the lease. After a visit to Kulaluk in December the Chief Minister confirmed that 'as soon as the survey of the road is completed and excised from the lease, title to all of the remaining land will be issued within three weeks of that date and I shall take a great delight in personally handing the title over to you.' He also wrote that 'the NT Government will give you all the assistance it can to help you make Kulaluk a pleasant place. The area will be fenced and if you require a safe crossing, this will be attended to, as well as the provision of water, power, trees and general beautification.' Just in case these promises weren't enough, he restated another: 'I also said I would try and arrange an appointment for you or your nominee and myself to see the Prime Minister to talk further about the land occupied by Sabrina Holdings.'<sup>93</sup> He of course already knew what the answer would be to any such request for a meeting. Apparently the request was never made. However, the assurance from the Chief Minister calmed the situation, and by early January 1979 three survey teams were at work measuring the road and finalising the boundaries for Kulaluk.<sup>94</sup>

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<sup>91</sup> R I Viner to P A Everingham, 19 October 1978.

<sup>92</sup> Meeting notes by G Eames, 7 November 1978.

<sup>93</sup> P A Everingham to B Secretary, 11 December 1978.

<sup>94</sup> J D Gallacher to Acting Chief Minister, 15 January 1979.

## Granting the Lease, 1979

With the road excision and the decision not to acquire any of the private leases, the once integral area of land proposed by Judge Ward was cut up. The main camp at Kulaluk was effectively separated from the bulk of the land in the lease by the Sabrina land, Henry Lee's property and Bakhita Village, with the only connection a narrow corridor along the beach. The land left from the old Bagot Reserve would be cut into several pieces by the roads which were to be constructed. Further, the access to the camp was through the block owned by the community's old foe, Sabrina Holdings.

Sabrina's lease certainly had disadvantages as residential land, including being located well within both the primary surge zone and the airport flight funnel. The company had come to be viewed by more than a few officials as attempting to use the Kulaluk people as pawns in an effort to obtain a more lucrative price for the land from the government than it might get by subdividing it. In early January 1979 there was once again a new Minister for Aboriginal Affairs, Senator Fred Chaney, to whom the company could make representations for the purchase of the land. In a familiar pattern, the company combined pleas for the sympathy of the Minister (because he had been 'led on so long') with a veiled threat to the Aborigines in an apparent attempt to stir them into rash action.

On learning that Senator Chaney planned to visit Darwin late in the month, Cecil Black requested a meeting with the Minister. Darwin DAA reported that Black wished to discuss the 'non-funding' of the ALFC (quite obviously Sabrina was still eager to sell). In the same report, however, Canberra was also informed that Darwin office had just found out that Black had given notice to the Aboriginal Liaison Unit that Sabrina would commence construction work on its subdivision the next week and that its 'first action would be to knock down the bridge which currently provides access to the Kulaluk camp site.'<sup>95</sup> Recognising that Sabrina would lose much of its power for manipulation if it did not control access to the camp, the NT Government approved a proposal to construct vehicular access from Coconut Grove Drive through the school reserve.

The crisis was temporarily averted when Senator Chaney agreed to meet with Sabrina's representatives, although he was advised by his

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<sup>95</sup> Note for file by P J O'Neill, 17 January 1979.

department that the meeting would be unlikely to resolve anything. At a subsequent meeting in February an enthusiastic new Minister attempted to overcome the impasse by suggesting an exchange of the land held by Sabrina for other land in the area. The Darwin office of DAA consequently raised this possibility with the Northern Territory Government. In what almost seems a pay-back for Ian Viner's indifference to representations from Paul Everingham, it was informally learned that such an arrangement was acceptable as long as the land to be exchanged was on Kulaluk.<sup>96</sup> In late March, Sabrina's solicitor was informed that the matter was being pursued with the Northern Territory Government.<sup>97</sup> Sabrina refrained from stirring the Kulaluk waters for a while.

The last major hurdle in granting the lease was getting agreement on conditions and settling all the associated details. Since the Aboriginal Land Rights Act was not applicable, Kulaluk was treated as a needs claim under the Special Purposes Lease Act. The purpose of the proposed lease was to be Special Community Development and zoning was to be for open space (O1) and special uses (S2). The S2 zoning permitted 'any land, building or other structure which is used or intended to be used for the parking of caravans or motor homes or the erection or use of tents, mobile homes or cabins for the purposes of providing accommodation principally for the Larrakia people but does not include a caravan park or tourist park.' Lease conditions were proposed 'without prejudice' by the Serviced Land Administration Branch in early February.<sup>98</sup>

The proposed tenure caused heated discussion at Kulaluk. There was a strong feeling that title should be either similar to the Aboriginal title in the Aboriginal Land Rights Act or else outright freehold. These ideas were blamed by the local DAA officers on 'outside interference.'<sup>99</sup> The demands were quickly dropped when the Kulaluk people were 'told that unless they stopped arguing amongst themselves and agreed to some of the conditions laid down by the NT Government then they stood a fair chance of losing land which their people had been fighting for for many years.'<sup>100</sup> When the community accepted all the proposed terms the only change was

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<sup>96</sup> J L Wauchope to Minister for Aboriginal Affairs, 6 March 1979.

<sup>97</sup> F M Chaney to C A Black, 28 March 1979.

<sup>98</sup> T R Lawler to Secretary, Aboriginal Development Foundation, 8 February 1979.

<sup>99</sup> J L Wauchope to T C Lovegrove, 23 March 1979.

<sup>100</sup> G K Castine to J L Wauchope, 23 March 1979.

the addition of a term that stipulated ‘that as much of Kulaluk be preserved in its natural state as possible.’<sup>101</sup>

Justice Woodward’s recommendations, that title should be held by trustees appointed by the Northern Land Council, was long forgotten by this time. The NLC itself could not be involved because Kulaluk was an urban land claim, while the Aboriginal Development Foundation (which was to hold title to the other Aboriginal leases in Darwin) had been involved in continuous quarrels with the community and its advisors. An internal memorandum from the DAA field officer liaising with the Kulaluk people summarised the situation: ‘The people desire that the title in the first instance be given to the Gwalwa Daraniki Association, an incorporated body, and later handed over to the Larrakeah Lands Association once it is officially incorporated. The group were still adamant that the ADF should not be involved with the handling of the land title issue. The ADF advised that that did not worry them and they would be happy to withdraw from the nastiness of the Kulaluk scene.’<sup>102</sup> Soon, arrangements were made for negotiations on behalf of the Kulaluk community to be handled by the North Australian Legal Aid Service.

Even though overall agreement had been reached, many details remained to be resolved. Negotiations to iron out the wording of the lease conditions continued for three months, as letters were exchanged between the Serviced Land Administration Branch and Tony Fitzgerald, the NAALAS solicitor with a brief to represent the Kulaluk community. Ultimately, the additional clause proposed in March was dropped, as it was considered that its intent was already covered by the other conditions. The Gwalwa Daraniki Association qualified as an organization able to hold a lease under the Special Purpose Lease Act. Lands and Survey officials worked to delineate easements for pedestrian access, power lines, sewerage and drainage and to close redundant road reserves. Agreement was reached regarding future fencing and landscaping after the connector road (the future Dick Ward Drive) was finalised.

By the end of June all points had been settled and Bobby Secretary showed Ross Fountain, Secretary of the Department of Lands and Housing, where an access road and water connection to Kulaluk should be located in relation to the swamp so that his ‘Dreaming’ would not be place in jeopardy. On this occasion, Albert Treeves proposed that a ceremony

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<sup>101</sup> F S Fogarty to B M Lindsay, 23 March 1979.

<sup>102</sup> G K Castine to J L Wauchope, 23 March 1979.

should be held to mark the handover of title. He ‘indicated that the Kulaluk people would like to invite some Government people ... but that they would have to ... find some funds to provide food and drink for all those who would attend.’<sup>103</sup>

With the finalisation of the lease close at hand, Sabrina Holdings made a last ditch effort to get the Government to take its undeveloped land. By June, it had become obvious to the company that the hope of alternative land outside Kulaluk would not be met.

The first indication of trouble came on 20 June when the Department of Transport and Works received a telex from Sabrina’s solicitors objecting to a water connection ‘which appears to supply water to certain campers in the Kulaluk area.’ On 25 June the company began clearing operations on its block, and the following day access to Kulaluk was cut off. *Bunji* (July 1979) later claimed that while the Kulaluk people were at the hall attending a hearing of the Kenbi land claim the track was blocked ‘by dumping old car bodies on the bridge.’ A few days later the water was cut off; however, the Department of Transport and works had already located a temporary tanker at the Kulaluk site in anticipation of this event.<sup>104</sup>

Once more, Senator Chaney tried to get Sabrina interested in finding alternative land on the proposed lease.<sup>105</sup> In reply the Minister was told by Sabrina’s legal advisors that a meeting had been held between two Sabrina directors, representatives of DAA and the NT Government, ‘and a person called Albert who said he was representing Aboriginal persons in the Kulaluk area. To say the least, the meeting was useless except for the purposes of meeting Albert and renewing Mr Black’s acquaintance with Mr Wauchope and Mr Gallacher. The only land which Albert purported to offer to our client was of no value.’<sup>106</sup> This was an unfair portrayal of what had taken place. According to a report by the DAA’s regional director, who had been present at the meeting: ‘It is not true as Mr Black states that Mr A Trieves [sic] offered only useless pieces of land. In fact, he was prepared, and had been authorised by the President of the area, Mr Bobby Secretary, to negotiate on any piece of land which Sabrina Holdings considered suitable. Sabrina Holdings then proceeded to reject all of the land as

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<sup>103</sup> J D Gallacher to T C Lovegrove, 26 June 1979.

<sup>104</sup> J D Gallacher to R A Fountain, 29 June 1979.

<sup>105</sup> F M Chaney to C A Black., 29 June 1979.

<sup>106</sup> Cridland and Bauer to F M Chaney, 31 July 1979.

unsuitable.<sup>107</sup> Senator Chaney consequently informed Sabrina Holdings that there was nothing further he could do to resolve the issue.<sup>108</sup>

The arrangements for the handover ceremony were planned by the Aboriginal Liaison Unit ‘in conjunction’ with the people at Kulaluk. Preparations were made for traditional Aboriginal dancers from Bathurst Island. Meanwhile, Bill Day prepared to rehearse ‘the history of Kulaluk – a play in six parts,’ which he had written. The script included re-enactments of Bobby Secretary’s initial meeting with Bill Day, Judge Woodward’s visit to Kulaluk, and the fire bombing incident (complete with Fred Fogarty tossing a petrol bomb into an old car body).

The formal handover of the Kulaluk Special Purpose Lease came on 25 August, 1979 – over eight years after the first public demands had been made in mid 1971. Over 300 people attended, although there was criticism that some people (notably Bill Day) who had so actively supported the campaign for land rights at Kulaluk did not receive a formal invitation.

As he had promised, the Chief Minister came to Kulaluk to personally present the title: ‘The land on which Darwin is situated belonged to the Larrakia before the white man first came to the Northern Territory, now Mr Bobby Secretary is to receive the title to part of this land.’<sup>109</sup>

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<sup>107</sup> J L Wauchope to Minister for Aboriginal Affairs, 22 August 1979.

<sup>108</sup> F M Chaney to C A Black, 12 September 1979.

<sup>109</sup> *NT News*, 27 August 1979.

